The scope of Test Tube Baby Fertilization in Islam

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ABSTRACT

Childlessness is one of the grimmest socio-cultural issues of the 3rd world. Particularly, inside the male-dominated societies, infertile ladies face lots of troubles such as tendency of re-marriages of their husbands and increasing rates of divorces. Women' rights are at stake on this milieu and that they sense embarrassed putting a blot or query mark on their already uncertain future. They fall prey to a number of social and psychological issues. In most cases, family circles are shattered and women in the long run devote suicide. With the passage of time different methods were invented to solve this problem. Test tube baby fertilization is the most popular method. In different societies people are following it without caring its ethical concepts. This article will revolve around these aspects.

Key Words: IVF, Artificial Insemination, Artificial methods of child birth, Test tube baby,

Introduction:

Modern Technologies are playing a very important role for providing pleasure and happiness to human being in one side while on the other side it is creating many questions in their minds whether they can adopt and utilize them in their practical life. Modern artificial methods of child birth e.g. test tube baby fertilization is among such issues, which need debate about their practical adaptation. The following aspect will be analyzed in this article.

- *Need of test tube.
- *Permissible method of acquiring sperms and eggs.
- *To whom embryo transfer is permissible.
- *Third party involvement (donors).
- *Scope of test tube baby fertilization in Islam

Need of test tube method:

In the past the childless people were much worried to carry the name of their family. They had very limited treatments to conceive a child, they, therefore, adopt a child. Letter on artificial insemination was introduced but still some could not get benefits from it. At last Test Tube Baby Fertilization method was introduced. This fulfilled the desired of having a child. Consequently, this method was adopted worldwide. Islam doesn't see any wonderful progress and scientific initiative in the field of science in

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deceptive glance because it allows its followers to take steps for the betterment of humanity. Infertility is also one of the diseases so they can be cured by modern technology as there is no such disease in the world which has not its treatment. The Holy Prophet (*) himself said,

"Narrated by H. Abu Hurairah (R.A) that the prophet (*) has said, "There is no malady that Allah has sent down aside from that He likewise has sent down its medication". (2)

This hadith shows that entire medical discoveries for the treatment of diseases are taking place with the will of Almighty Allah. The holy prophet (peace be upon be him) himself induced the people for the treatment of diseases by saying;

"Narrated by Usama bin Sharik that desert Arabs asked the prophet (**) of Allah should we make use of medical treatment? Prophet (**) replied, O slaves of Allah make use of medical treatment. For Allah has not made a disease in the world without a remedy for it, with the exception of one disease. They asked about that disease, he replied "old age".

He also said,

"Narrated by Osama bin Sharik that I came to the prophet (*) and his companions were sitting as if they had birds on their heads. I saluted and sat down. The desert Arabs then came from here and there. They asked Apostle of Allah, should we make use of medical treatment? He replied make use of medical treatment, for Allah has not made a disease without appointing a remedy for it, with the exception of one disease namely old age. (5) He further said,

"Abu Hurairah (R.A) Narrated that I heard Allah's messenger (*) saying there is curing in black seed for all diseases except "Sam" Ibne Shahab said that "al-Sam" is death and "Black seed" is called black cumin. (7)

These sayings proved that treatment of any disease is Sunnah of Holy Prophet (*). As we know that infertility is also a kind of disease. So, a person can get benefits from the modern methods of treatments. But it is necessary to keep the laws and principles set by Islamic Shari'h. Hence test-tube fertilization is a kind of treatment for providing children to childless couples. Hence a person can use this method. Michael writes, "Muslims recognize that if a couple has problems concerning a baby,

they may need medical help, there is no objection to IVF or AIH." ⁽⁸⁾ According to the decision of majlas-e –al-majma-al-Fiqh –al-Islami Makkah, "Married women who are not able to be pregnant, for them need of a child is legal object / desire. For this they can be treated by adopting artificial method of child birth." ⁽⁹⁾

Permissible method of acquiring sperms:

For the process of test tube baby, the first stage is of acquisition of sperms and eggs. Different methods are used for it. The first one is "masturbation". There is divergence among the scholars for this method. Majority of the scholars acknowledge this method contraband. But in constraint and for conceiving a child they are agreed on the legality of this method.

Mr. Vardit narrates; "This method is permitted even if the husband has to masturbate in order to collect the seed in to a vessel, although Islamic law in general is not supportive of free masturbation." (10)

While the second method "exterior ejaculation and storing sperms in pot" is better and free from shariah defects. The third method "use of condom" is preferable and safe. (11) The fourth is PESA (percutaneous epididymal sperm aspiration) technique in which the sperm is sucked out from the epididymis by puncturing it with a fine needle. And fifth is MESA (micro epididymal sperm aspiration) technique. In this method the doctor uses microsurgery to find epididymal sperms. Some doctors place unipolar rectal electrodes around the base of the penis and 60-cycle A C current at low voltage is given to cause erection and ejaculation. The doctors should use those method which are not painful until unless the other methods are failed.

Acquiring of eggs:

There is only one method for getting eggs. the probe is inserted in the vagina or bladder. Two points should keep in mind while obtaining eggs.

- a. patient should feel less pain.
- b. they should consult a lady doctor. If lady doctor is not available then only trustworthy male doctor may be consulted but it is necessary that some other person from the family should be present there at the time of this process.
- c. woman uncover only that part, unavoidable to expose. (12)

To whom embryo transferred is allowed:

In the second stage the eggs and the sperms are fertilized. Then it is injected in the uterus of the woman. Few questions arise in these regards.

- (i) If the sperms of husband and eggs of his wife are fertilized outside the body whether it is allowed to transfer this zygote in wife.
- (ii) Whether the divorced woman can transfer zygote in her uterus after the separation from her husband.
- (iii) After the death of husband, a woman can inject zygote in her uterus.
- (iv) If the husband or wife is physically unfit to produce sperms and eggs whether they can get the sperms or eggs of third party (donor).

The answers of these questions are as follows.

Fertilization after the sexual intercourse is the natural process of pregnancy which is defined in the Holy Quran:

"It is He who created you from one soul and created from it its mate that he might dwell in security with her. And when he covers her, she carries a light burden and continues therein"

This verse clears that pregnancy and fertilization is relating to sexual contact. While in test tube method the sperms and eggs are fertilized outside woman's body and then injected in the uterus. It is un- natural method.

In Islam, a person is allowed to adopt this method only when he is not able to fertilize his wife through sexual intercourse but they must care that the eggs or sperms of third party (donor) are not mixed in fertilization. The doctor should be trust worthy and there would be complete privacy, and the important thing is that she is not adopting this method to avoid herself from the sexual intercourse. Authority at Kuwaiti Ministry of Endowments (Waqfs) wrote, "There is no objection in Islamic law to this procedure as long as the insemination involves a married couple and the fetus is implanted in the uterus of woman who has produced the ovum [the Authority] also rules that when the test tube insemination has a harmful effect on the fetus, it is prohibited." (13) Mufti Sheikh Ahmad Kutty, a senior lecturer and Islamic scholar at the Islamic Institute of Toronto, Ontario, Canada states, "IVF is permissible in Islam only on condition that both sperms and eggs involved in the process originated from a man and a woman who are married to each other." (14) In the Fiqh Academy at Jeddah and WHO after various meetings in 1980-2000, it was decided; "Test tube baby is lawful under the following conditions;

If it involves married couples only.

- (a) During the marriage life.
- (b) Sufficient and meticulous care is taken to avoid lineage confusion."⁽¹⁵⁾ In third conference of the Islamic Fiqh council held in Amman, Jordan in 11-16 Oct. 1986, the council is unanimously agreed in the following two methods of In vitro fertilization;
- (a) Fertilizing a woman's ovum with her husband's sperms outside the body and then transferring the fertilized ovum into her uterus.
- (b) Inserting the man's sperms into his wife's uterus so that the fertilization is made into her uterus. (16)

In the above-mentioned two methods the first one is more painful than second one. As in the first process woman has to bear pain twice. First while obtaining eggs and second when the zygote is implanted in her uterus. In the second method she has to bear pain only once when the zygote is implanted in her uterus. So, the second process should be followed until unless the first one failed.

All above-mentioned verdicts of scholars show that test tube is allowed as a treatment when the sperms and eggs of wife and husband are used to fertilization or making ovum and inserted into wife's uterus.

Implanting of zygote after separation because of divorced/ death

The following questions are raised when a wife is separated from her husband in case of divorced or death.

- (i) Husband divorced his wife in this state that the egg and sperms were not yet fertilized. Whether she can make them fertilize and inject them in her uterus.
- (ii) If woman is divorced in such a state that egg and sperms had been fertilized before their separation whether she can implant the zygote in her uterus after the divorce?
- (iii) Woman was divorced in such a state that her egg was being taken but could not fertilize before the death of her husband. Whether those eggs can be fertilized with the sperms of her present or second husband?
- (iv) In case of the death of her husband whether she can implant the zygote in her uterus? (17)

In the case of "A" and "D" both have got separation. Their marriage contract has broken away and now they are stranger for each other, so their sperms and egg cannot be fertilized. Marcia C. Inhorn, Director for middle Eastern and North African Studies in University of Machigan narrate, "If the marriage contract has come to an end because of divorce or death of husband, medically assisted conception cannot be performed on the x-wife even the sperms come from the former husband." (18)

It is cleared that after the separation (divorced) the egg and sperms cannot be fertilized and injected in the uterus of x-wife. But in case of death if the sperms and egg were fertilized and implanted few months before the death of husband then it is allowed. ⁽¹⁹⁾ Otherwise, it is not allowed. Ibn Nujaim says; "Death nullifies the ruling relevant to this world, because it is a state of total helplessness." ⁽²⁰⁾ In the "B" condition, when eggs and sperms have been fertilized before the separation then woman is bound to implant the zygote in her uterus because now the zygote will get same status as it gets after the pregnancy in the uterus in a natural process, and child will be referred to her previous husband. ⁽²¹⁾

In case of "C" if the eggs have already been taken and not fertilized yet then those eggs can be fertilized with the sperms of her new husband but if the second husband is also medically unfit, but if he is healthy than those eggs cannot be used. While Hafiz Abdul Salam bin Muhammad, Naib Ameer "Jammat-ul-Dawa-ul-Islamia Muraid ke" is not agreed on it. He says, "When those eggs were obtained, those were not legitimate for the second husband. These were lawful/ legitimate for the first husband. Now at the time of new husband her eggs are new, as according to the modern science all the cells of the body are changing continuously." (22)

Third party involvement (Donor)

The third party is involved in two ways;

- (a) By obtaining the sperms or eggs of third person except husband or wife to conceive a child.
- (b) Using or obtaining the uterus of any other woman except wife to implant a zygote in

the involvement of third party, the following questions arise.

Why is donor needed?

Why is surrogacy needed?

What are the Islamic verdicts about surrogacy?

Now we answer these questions in the light of Islamic teachings.

Why is donor needed?

It consists of two types

- a. Obtaining sperms.
- b. Obtaining eggs.

(a) Obtaining sperms:

Because of the following reasons people obtain sperms.

(a) For conceiving a child having the qualities of great, intelligent, intellectual and skillful

person.

- (b) By birth or accidentally husband/wife is not able to produce required number of sperms or eggs necessary for fertilization.
- (c) Sometime couple follows this immodesty and impudence without considering it indecent act. (23)

Islamic concepts about Donors;

Some time it happens that woman by birth or accidentally woman is not able to produce any egg. Male obtain the eggs of any other woman (donor), fertilized it with his sperms and implanted it in her wife's uterus. It is haram as the other woman is not his wife. Islam never allows having a sexual intercourse with another woman. It emphasizes to be lemmatized with one's own wife. Almighty Allah says;

"Your wives are as a tilth unto you; so, approach your tilth when or how you will". Here Almighty Allah is bounding the males to have sexual intercourse only with wives. While in the above-mentioned condition, the egg is of that woman who is not his wife and is haram on him, so she was not tilith for him, so it is also adultery and is haram in Islamic Shariah. (24)

The holy prophet (*) himself forbade this kind of act by saying;

"Ruwaifi bin Thabit Al-Ansari saih; should I tell you what I heard the Apostle of Allah says on the Day of Hunain. It is not lawful for a man who believes in Allah and last day to water what another has sown with his water (meaning intercourse with women who are pregnant) (26)

This is clear that any person is not allowed taking the egg of any other woman. So, this is haram in Islam because Almighty Allah permits a male to marry four women by saying;

فانكحوا ماطاب لكم من النساء مثى وثلث و ربع (4:3)

"Get married the women of your choice, two or three or four; (at a time)" In spite of this if a person insists to obtain eggs of any other woman then he is

In spite of this if a person insists to obtain eggs of any other woman then he is transgressor and sinful and his all arguments will be considered only lame excuses.

The other condition of third-party involvement is that husband is not able to produce required numbers of sperms necessary for fertilization his wife obtain the sperms of any other healthy person directly or from the sperms banks and after fertilizing them with her egg she implants them as a zygote in her uterus and is able to produce a child for her husband. Such act is also haram again as it is resembling to adultery. In the period of ignorance, we find examples resembling to this type. Imam Abu Dawud narrates such type of situation with the reference of Hazrat Aishah (Allah be pleased with her)

ان عائشه رضى الله عنها زوج النبى على الخبرته ان النكاح كان فى الجاهلية على اربعة انحا فكان منها نكاح الناس اليوم يخطب الرجل الى الرجل وليته فيصدقها ثمه ينكحها و نكاح آخر كان الرجل يقول لامرته اذا طهرت من تمشها ارسلى الى فلان فاستبضى منه و يعتزلها زوجها ولا يمسها ابدا حتى يتبين حملها من ذلك الرجل الذى تستبضع منه فاذا تبين حملها اصابها زوجها ان احب وانها يفعل ذلك رغبة فى نجابة الوالد فكان هذا النكاح يسمى نكاح الاستبضاع (27)

There is no difference in the present form of donor's involvement and the actions done in ignorance period. Sheikh Jsd-ul-Haq (Al-Azar) considers sperms donation haram by saying; "To make the wife pregnant with the sperms of any other male than husband in either condition, husband has no sperms or having no sperms required for fertilization is haram in shariah because of it lineage is certainly mixed or amalgation and child is referred to that father to whom sperms was not been born and if the woman is pregnant in this process then it is kind of adultery and result of adultery will be traced upon him / her and according to the teachings of Holy Quran and Sunnah it is absolutely haram." (29)

In spite of this permission if any woman is agreed to fertile her eggs with the sperms of other person than husband then both husband and wife trespass the limits set by Almighty Allah. This thing may also create a passion of contemptuous against her husband and will cause the destruction of their family connection. Vardit says; "The wife's curiosity may be aroused as to whose semen has been inserted into her body, and she may also grow contemptuous of her sterile husband. Consequently, their

family will be destroyed." (30)

If husband is sterile and forced the wife to implant the zygote fertilized by the sperms of other man, she can demand khula from him, permitted by Islam instead of indulging in the act of adultery. Sheikh Ahmad Kutty says, "To introduce an egg or sperm from a third person to the equation is akin to sharing the marriage bed with someone else. It is therefore considered no different from zina (adultery) in Islam. A child born through such procedure is born of zina in Islam." (31) But if the doctor did this act fallaciously then what should the couple do? It is clear that a person can know about it when after the implantation of zygote in the uterus of wife. There is no doubt of its sinfulness. But now days a lot of medicines are available to miscarriage this pregnancy but it is allowed in preliminary stage. (32) if couple came to know of this mistake after four months then they are not allowed to adopt the process of abortion because baby gets soul after four months. The Holy Prophet (32) says

(33)"Hazrat Abdullah bin Masud (Allah be pleased with him) reported that Allah's messenger who is the most truthful and his being truthful said: verily your creation is on this wise one of you is collected for forty days in his mother's womb in the form of blood after which it becomes a clot of blood in another period of forty days. Then it becomes the lump of flesh and forty days later Allah sends His angel to it with instruction concerning four things: so, the angel writes down his livelihood, his death, his fortunes and misfortunes." (34)

In the twelfth cession of Majlas-ul-Majmah-al-Fiqhi-al-Islam in Makkah on 15th to 22nd Rajab 1410 AH, it was decided; "If the pregnancy is of 120 days then abortion is not legally right, even if medical diagnose shows that the baby is incomplete or immature". ⁽³⁵⁾ Molana Mojahid Islam Qasmi says; "If a woman is pregnant with adultery this pregnancy is worthy of respect. There is no fault of baby in it so this abortion is not legally right." ⁽³⁶⁾ It means that abortion is not allowed when a soul is blown in a baby. Otherwise, it will be named the killing of baby. Almighty Allah prohibited the killing of any body by saying;

"Don't kill a living being which Allah has made sacred except for just cause". So, the baby will be allowed to born. After the birth this baby will be referred to that woman who gave birth as the holy prophet (*) says;

"The son is for the bed (i.e., the man on whose bed he was born) and stones (despair, i.e., to be stoned to death) for the one who has done illegal sexual intercourse." (38)

Saving people from this doubtfulness Dr. Mian Aslam Gynecologist says; "In Islam a person is allowed to take any kind of treatment when his life is in danger. It is cleared that if a person cannot conceive a child his / her life is not in danger, so adopting such method of treatment in which doctor himself can non give guarantee of legal or illegal, it should be avoided." (39)

Conclusion:

From the above discussion it is cleared that Islam does not forbade its followers to utilize modern inventions and techniques. Test tube baby fertilization can be benefited by those infertile couples who really required it to save their family and continue their linage. But they must be careful. They can only use their own sperms and eggs for fertilization and it must be implanted in the uterus of wife. if the sperms or eggs of third party is fertilized and implanted in wife's uterus or some other woman, hired for this purpose is resembles of adultery.

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